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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/539,717

02/21/2006

Johann Anderl

VO-730

2985

42419 7590 04/04/2008  
PAULEY PETERSEN & ERICKSON  
2800 WEST HIGGINS ROAD  
SUITE 365  
HOFFMAN ESTATES, IL 60195

EXAMINER

PELHAM, JOSEPH MOORE

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

04/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,717	<b>Applicant(s)</b> ANDERL, JOHANN	
	<b>Examiner</b> Joseph M. Pelham	<b>Art Unit</b> 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/21/06</u> .   | 6) <input type="checkbox"/> Other: ____.                          |

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***Claim Rejections - 35 USC § 103***

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. 5881636 in view of US Pat. 4255129.

US'636 discloses a baking oven comprising a spiral conveyor 500 – a “helical face” – “wound in a concentric manner about a hollow central section,” and a recirculating air heating circuit, as claimed.

The claims differ substantively from US'636 only in calling for vibrating drive means for the conveyor, an ascending direction for the conveyed items, and steps for turning over the conveyed items. Referring to Fig. 3 and col. 9, lines 9-49, especially, US'129 discloses vibrating conveyor drive means for an oven, an ascending direction for the conveyed items, and steps for turning over the conveyed items. It would have been obvious to adapt the vibrating drive means of US'129 to the oven of US'636, since it is clearly more convenient to load downward into the oven, i.e., toward the lower part of the oven, and unload from a higher part of the oven, and the vibrating means of US'129 is disclosed to allow uniform heating of the items on the conveyor.

US'636 does disclose as well, at col. 4, lines 1-4, drivable, “vibrating” supply means (claim 8). While US'129 does not explicitly disclose “singling-out” supply means and removal means “leading inclinedly downward” at the “output” section, or the specific “out-of-balance” drive means for the conveyor, these are all conventional adjuncts in the conveyor art and do not patentably distinguish the claimed invention from the prior art.

It would have been obvious to utilize the recited alignment for the “out-of-balance” conveyor drive means, as well as “singling-out” supply means, since these features are determined routinely and strictly by the individual baked item size, weight, and baking volume; and removal means located at the output section and leading downward, since this is conventional.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph M. Pelham whose telephone number is 571-272-4786. The examiner can normally be reached on M-F 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3/30/08  
/Joseph M Pelham/

Primary Examiner, Art Unit 3742